

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED CENTRAL BANK,

Appellant,

v.

Case No. 11-C-0434

BULK PETROLEUM CORPORATION,

Appellee.

UNITED CENTRAL BANK,

Appellant,

v.

Case No. 11-C-0821

BULK PETROLEUM CORPORATION,

Appellee.

DECISION AND ORDER
DENYING AS MOOT UNITED CENTRAL BANK'S JUNE 13, 2011, MOTION TO
CONSOLIDATE (DOC. 10), AND GRANTING UNITED CENTRAL BANK'S
SEPTEMBER 14, 2011, MOTION TO CONSOLIDATE CASES
(CASE NO. 11-C- 434, DOC. 30; CASE NO. 11-C-821, DOC. 6)

A brief history of this matter is required before addressing two motions to consolidate filed by United Central Bank (UCB). On February 18, 2009, the debtors, Bulk Petroleum Corporation et al., filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code.¹ UCB, a creditor, filed its first appeal on March 31, 2011, challenging the March 18, 2011, decision of the bankruptcy court granting the debtors' motion to

¹Although the docket in Case No. 11-C-434 identifies Bulk Petroleum Corporation as the appellee, Bulk Petroleum Corporation is one of 29 affiliated debtors in the jointly administered Chapter 11 case.

enforce a settlement agreement and declaring as forfeited, by UCB's conduct approval of the settlement by the FDIC. After UCB's request to stay the bankruptcy court's decision to enforce the settlement agreement was denied, the bankruptcy court entered an order granting the debtors' motion to sell real property known as 306 Canal Street, Annawan, Illinois. That sale order required, in part, that UCB release the mortgages, liens, and security interests it had in the property.

On June 13, 2011, UCB filed a notice of appeal from the sale order and that appeal was assigned to Judge Rudolph T. Randa. *United Central Bank v. Bulk Petroleum Corporation*, Case No. 11-C-669. UCB moved to consolidate the second appeal with the first in Case No. 11-C-434, but did not file a motion to consolidate in the each of the cases as required by Civil L.R. 42(a) (E.D. Wis.). Instead, UCB moved to stay the second appeal pending resolution of the first appeal. Judge Randa granted the motion and closed the case for administrative purposes. (Case No. 11-C-669, Doc. 4.) Hence, the motion to consolidate the second appeal, which remains pending in Case No. 11-C-434, is moot inasmuch as Case No. 11-C-669 is now closed.

Meanwhile, the bankruptcy court confirmed the debtors' first amended plan of reorganization and issued its findings of fact and conclusions of law. UCB filed another appeal currently pending before Judge Joseph P. Stadtmueller. *United Central Bank v. Bulk Petroleum Corporation*, Case No. 11-C-821. In addition, UCB filed a motion to consolidate to which Bulk Petroleum Corporation did not respond. Rather, Bulk Petroleum Corporation moved to dismiss as moot the first appeal in Case No. 11-C-434 because the settlement had become effective and "substantially consummated."

Pursuant to Rule 42(a), consolidation of Case Nos. 11-C-434 and 11-C-821 is appropriate. Both appeals arise from UCB's interest in the debtors' estate and the bankruptcy court's decision to enforce the settlement agreement between the parties. The bankruptcy court overruled UCB's objection to confirmation of the debtors' First Amended Chapter 11 plan after concluding that the settlement agreement required UCB to vote in favor of the plan and reversed UCB's rejection ballot. Therefore, in the interest of judicial economy and the common questions of law and fact that are at issue,

IT IS ORDERED that United Central Bank's June 13, 2011, motion to consolidate is denied as moot. (Doc. 10)

IT IS FURTHER ORDERED that United Central Bank's second motion to consolidate appeals is granted. (Doc. 30)

IT IS FURTHER ORDERED that Case No. 11-C-821 is consolidated with the lowest case number, 11-C-434. Civil L.R. 42(a) (E.D. Wis.).

IT IS FURTHER ORDERED that all future filings are restricted to Case No. 11-C-434.

Dated at Milwaukee, Wisconsin, this 1st day of March, 2012.

BY THE COURT

/s/ C. N. Clevert, Jr.
C. N. CLEVERT, JR.
CHIEF U. S. DISTRICT JUDGE